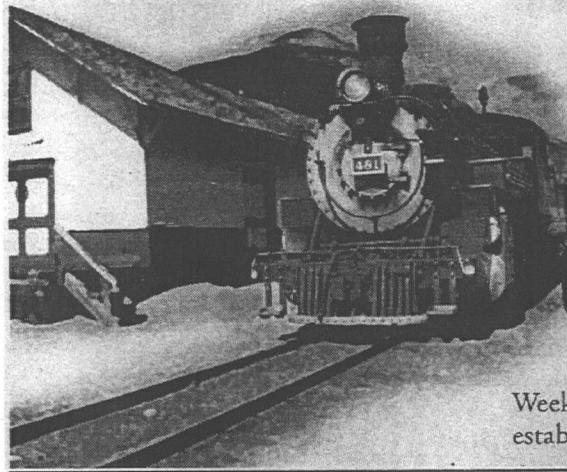


Volume 136, issue 21, November 18, 2010



# Silverton STANDARD & the MINER

50¢

Weekly Miner  
established 1875

SILVERTON'S PIONEER NEWSPAPER SINCE 1875

Silverton Standard  
established 1889

## IN BRIEF

### Deputy is on paid administrative leave

San Juan County Sheriff Sue Kurtz says deputy Bruce Conrad is on paid administrative leave but she won't yet say exactly why.

Kurtz said that Conrad is on leave pending an "ongoing investigation."

### Thanksgiving dinner at American Legion

On Thanksgiving Day, the American Legion Post 14, the Church on the Hill and St. Patrick's Altar Society will together host a traditional turkey dinner with all the fixings at the American Legion Hall from 11:30 a.m. to 2 p.m.

Those attending the dinner may contribute side dishes or desserts. Donations will be gladly accepted. Everyone is welcome. Let us come together and be thankful.

For more information, please contact Patty Dailey.

# EPA probes Cement Creek



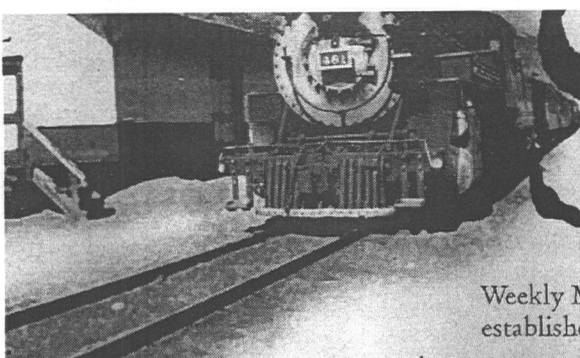
## Agency out to see if area may qualify for Superfund

By Mark Esper

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### Silverton Standard's Vacation Edition comes out next week

Silverton Standard & the Miner editor Mark Esper is on

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And the water quality in the

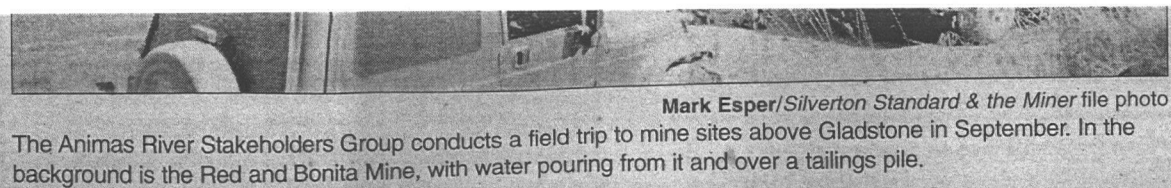
**"The stakeholders have done a phenomenal job, but they're kind of nibbling around the edges of what are some larger remain-**

comes out next week  
*Silverton Standard & the Miner* editor Mark Esper is on vacation next week, so the paper is likely to be a bit slimmer than usual.

"So don't do anything newsworthy until I get back," Esper said.  
 He will remain on vacation through Dec. 5, but will be producing the *Standard* from a secure, undisclosed location. Esper can be contacted by e-mail at editor@silverton-standard.com, so send in the news articles or e-mail the photos and they can all get in the paper.  
 And *Standard* advertising director Katey Fetchenhier is available by calling the *Standard* office, 387-5477.

**Standard published a day early next week**  
 Because of the Thanksgiving holiday, the *Silverton Standard* will be delivered to the post office and vending machines in Silverton a day early next week, on Wednesday, Nov. 24.  
 Have a great Thanksgiving!

**Exercise helps prepare for Thanksgiving feast**  
 Giving Thanks: a restoration morning for your whole community, a community movement class with Ananda Foley, will offer Thanksgiving Day morning.  
 The class, from 10:30 a.m. to noon, will be held at the  
 See BRIEFS, Page 10



Mark Esper/*Silverton Standard & the Miner* file photo  
 The Animas River Stakeholders Group conducts a field trip to mine sites above Gladstone in September. In the background is the Red and Bonita Mine, with water pouring from it and over a tailings pile.

# Superfund at a glance

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on Dec. 11, 1980.

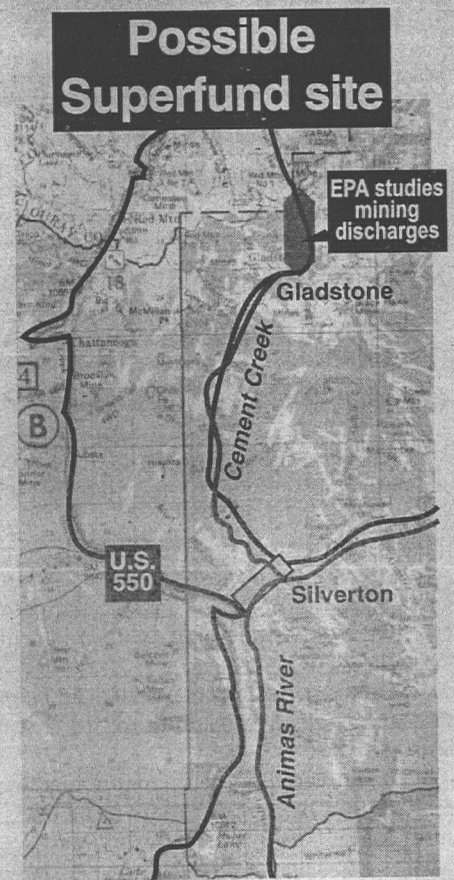
This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.

Over five years, \$1.6 billion was collected and the tax went to a trust fund for cleaning up abandoned or uncontrolled hazardous waste sites. CERCLA:

- established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
- provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified.

As of March 26, 2010, there were 1,279 Superfund sites on the National Priorities List in the United States. Sixty-one additional sites have been proposed for entry on the list. As of March 26, 2010, 341 sites have been cleaned up and removed from the list.

As of May 1, 2010, there were 18 Superfund sites on the National Priorities List in Colorado. Two more sites have been proposed for entry on the list and three others have been cleaned up and removed from it.



And the water quality in the creek appears to be worsening, said Sabrina Forrest, site assessment manager for the EPA in Denver. This degradation was not what EPA had in mind in the 1990s when EPA backed away from possible Superfund listing of the watershed, Forrest said. Prior EPA management had agreed to forego listing as long as progress was being made in the watershed.  
 Forrest said the EPA is conducting a site reassessment to determine if the complex of mines near Gladstone could qualify for the National Priorities List (NPL), which would make it eligible for the so-called Superfund.  
 Superfund is officially called the Comprehensive

the edges of what are some larger remaining issues with regard to sources of water quality and habitat degradation. Those issues will be expensive to address." Sabrina Forrest, EPA site assessment manager

See SUPERFUND, Page 8

# A free-range fridge in the cold-case file

An abandoned refrigerator left along the road outside the transfer station has triggered a discussion about the town's responsibility for illegally dumped refuse in light of new fees it imposed on disposing of such noncom-

pactable items.  
 Town Administrator Jason Wells told the Town Council on Monday that he authorized paying Silverton Trash Co. \$40 to cover the disposal fee for the fridge.

"But I need to know what our policy should be as things start turning up," Wells told the Town Council. He said the town's pay-as-you-dump policy is leading to more bandit dumping as some try to avoid transfer station fees.

He suggested the town should bear some responsibility for the problem, but told the Town Council that "to what extent you as a board want to go along with this, I don't know."  
 See FRIDGE, Page 11

## ***SUPERFUND, from Page 1***

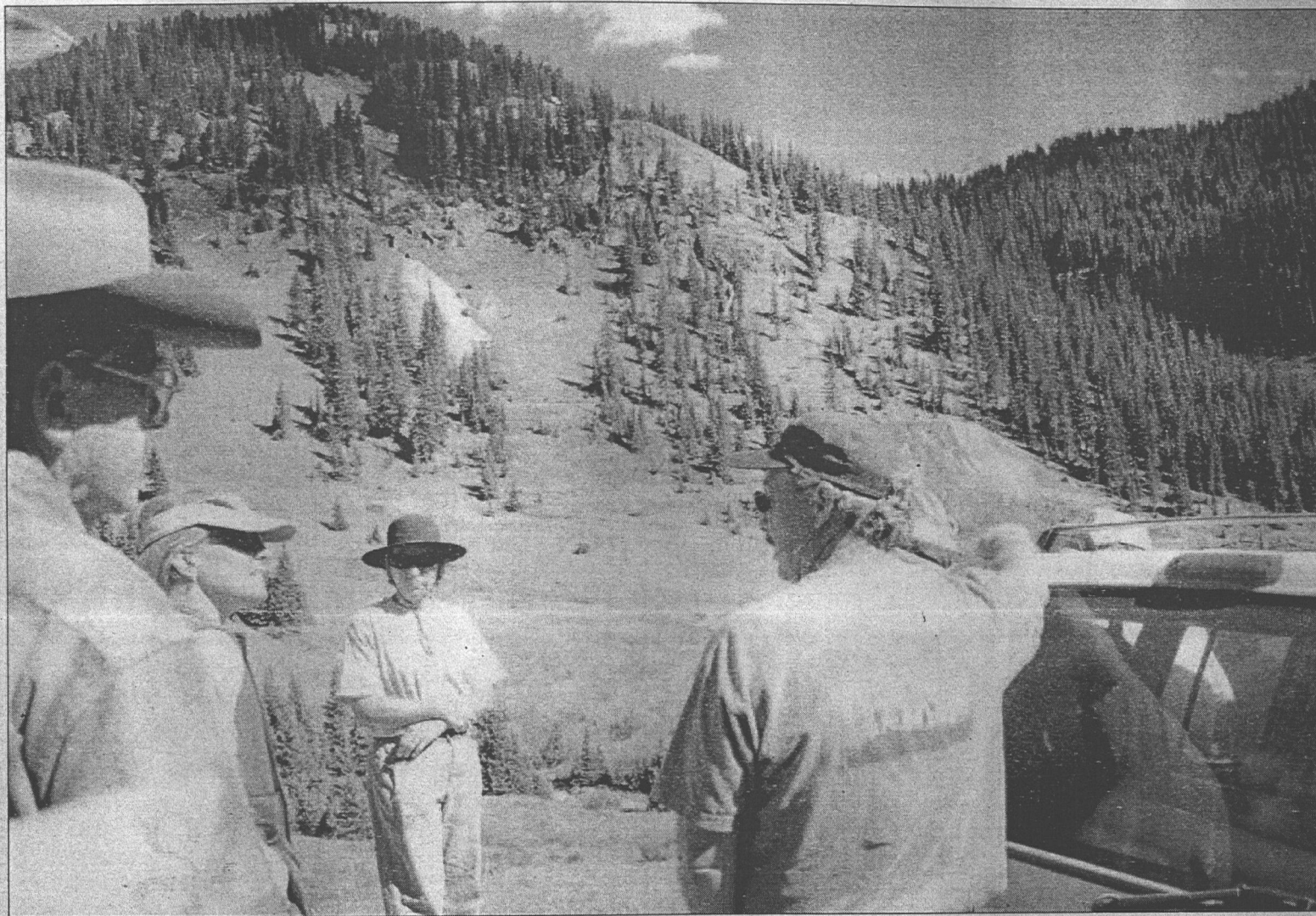
Environmental Response, Compensation and Liability Act.

Enacted by Congress in 1980, it created a tax on the chemical and petroleum industry to establish a trust fund for major environmental cleanups. This tax no longer exists; however, EPA receives over \$7 billion in Congressional funding each year and about \$1.2 billion goes to Superfund programs. And the law helps the EPA to identify and establish the liability, viability, and capability of persons potentially responsible for releases of hazardous substances.

### **The first step**

The first step of the process for listing Superfund sites is for the EPA to do a preliminary assessment and site inspection. Following the site inspection, or in this case, the site reassessment, the site data and other information are used in a mathematical model. The model, called the Hazard Ranking System is a screening tool that allows the agency to assess the relative threat associated with actual or potential releases of hazardous substances from sites across the nation.

If the model indicates the site could be listed for further investigation and a comprehensive response action, much more work with all stakeholders, including landowners, the community, and state will be needed to place the site on the NPL, Forrest said. "However, once a site is listed, a plan is developed to remediate the contamination. The cleanup plan does not get developed until



**Mark Esper/Silverton Standard & the Miner** file photo

From left, Steve Fearn of Silverton, Sabrina Forrest of the Environmental Protection Agency's Denver office, Kay Zillich of the Bureau of Land Management, and Peter Butler of Durango discuss water quality issues associated with mine runoff along Cement Creek in a September field trip organized by the Animas River Stakeholders Group. To the right, tailings from the Bonita and Red Mine are visible, with water gushing over it.

## **Cement Creek's complex**

## **Superfund: The process at a glance**

The Superfund cleanup process begins with site discovery or notification to EPA of possible releases of hazardous substances. Sites are discovered by various parties, including citizens, State agencies, and EPA Regional offices.

Determines the nature and extent of contamination. Assesses the treatability of site contamination and evaluates the potential performance and cost of treatment technologies.

• **Records of Decision:** Explains which

developed to remediate the contamination. The cleanup plan does not get developed without significant input from all stakeholders."

Since 2009 and prior to the site reassessment, the EPA and ARSG members have focused on collecting water-quality data from mine adits and other mining-impacted drainages to see how water quality and flows have been changing since the American Tunnel was plugged and water treatment in Gladstone was stopped in 2004. Those data are not of the type EPA would exclusively use for the HRS model.

"We don't have a comprehensive enough data set to say that this is a NPL-caliber site," Forrest said. "We can't say where this is going, but in order to determine if it is of National Priorities List caliber, data has to be collected that we can use in our model."

Forrest said Superfund listing is "one potential tool in the tool box" in the EPA's mission to protect human health and the environment.

"We did the sampling in the last few weeks," Forrest said. "It will be another four to eight weeks before we start getting data and tasking our contractors to start poring over it," Forrest said.

She added that she expects a determination on whether the site qualifies as a Superfund priority to come in January or February at the earliest.

Forrest also noted that Superfund listing "needs community support" and state support in the form of a governor's letter to the EPA.

"There's a lot of coming

## complex problem

Cement Creek has seen a steady increase in metals loading since a treatment plant for mine runoff at Gladstone was shut down in 2004.

That shutdown was the result of a court order in a lawsuit involving a complicated property dispute.

The water treatment plant had been operating since the early 1980s, in conjunction with the Sunnyside Mine, which closed in 1991.

Just above the site in Gladstone where the treatment plant once stood lies the portal to the American Tunnel, which was sealed starting in the late 1990s by a series of three bulk-heads.

It was hoped the bulk-heads would limit discharge of contaminated water from the mine, and for a time, that appeared to be the case.

But about four years ago it was noticed that discharges of water from other mines was increasing.

Now, about 250 gallons per minute are gushing from the Gold King Mine opening above the tunnel. The Mogul and the Red and Bonita mines are also showing increases in discharge as water has risen some 1,000 feet above the American Tunnel level after the bulk-heads were put in there.

together that needs to happen," Forrest said.

covered by various parties, including citizens, State agencies, and EPA Regional offices.

Once discovered, sites are entered into the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS), EPA's computerized inventory of potential hazardous substance release sites (search CERCLIS for hazardous waste sites).

Some sites may be cleaned up under other authorities. EPA then evaluates the potential for a release of hazardous substances from the site through these steps in the Superfund cleanup process.

Community involvement, enforcement, and emergency response can occur at any time in the process. A wide variety of characterization, monitoring, and remediation technologies are used through the cleanup process:

- **Preliminary Assessment/Site Inspection:**

Investigations of site conditions. If the release of hazardous substances requires immediate or short-term response actions, these are addressed under the Emergency Response program of Superfund.

- **National Priorities List (NPL) Site Listing**

**Process:** A list of the most serious sites identified for possible long-term cleanup.

- **Remedial Investigation/Feasibility Study:**

### The sites in question

The site reassessment work focuses on a cluster of mine sites at and above Gladstone, including the American Tunnel, Gold King Number 7 level, the Mogul and Grand Mogul and the Red and Bonita mines.

Bill Simon coordinator of the Animas River Stakeholders Group, said that while the group has sought "appropriate and cost-effective assistance" from the EPA, the group has "consistently rejected the CERCLA (Superfund) program."

The ASRG has instead favored funding from other sources, such as the Headwaters Initiative, Mine Scarred Lands and Targeted Brownfields programs.

and cost of treatment technologies.

- **Records of Decision:** Explains which cleanup alternatives will be used at NPL sites. When remedies exceed 25 million, they are reviewed by the National Remedy Review Board.

- **Remedial Design/Remedial Action:**

Preparation and implementation of plans and specifications for applying site remedies. The bulk of the cleanup usually occurs during this phase. All new fund-financed remedies are reviewed by the National Priorities Panel.

- **Construction Completion:** Identifies completion of physical cleanup construction, although this does not necessarily indicate whether final cleanup levels have been achieved.

- **Post Construction Completion:** Ensures that Superfund response actions provide for the long-term protection of human health and the environment. Included here are Long-Term Response Actions (LTRA), Operation and Maintenance, Institutional Controls, Five-Year Reviews, Remedy Optimization.

- **National Priorities List Deletion:** Removes a site from the NPL once all response actions are complete and all cleanup goals have been achieved.

Source: Environmental Protection Agency

"Nevertheless, all options are on the table, as they have been in the past," Simon said. "The EPA has obligations that they must attempt to address and we have ours. They are not always the same."

Simon estimated some 400 pounds of zinc per day are being poured into the drainage. Much of that was previously being taken out by the treatment plant at Gladstone prior to 2004.

The stakeholders group was formed in 1994 as a collaborative approach to water quality issues in the region and as an alternative to a Superfund designation in the area. It includes representatives from the EPA, Colorado Department of Health

and Environment, the San Juan Public Lands Office, and community members interested in water quality issues in the upper Animas Basin.

Many in the Silverton community felt that the stigma of such a designation would devastate the area's tourism industry.

Steve Fearn, a member of the ASRG and a Silverton mining engineer with extensive experience in the San Juans, says the stakeholders group has not been asked to support a CERCLA action, "and in my opinion, there would probably not be a consensus in the group to support this."

Fearn noted that over the past 16 years, ASRG "has specifi-

See **SUPERFUND**, Page 9

*SUPERFUND, from Page 8*

cally not endorsed Superfund actions in the basin, but has successfully worked on more collaborative alternatives."

Fearn acknowledged that the Gladstone/Cement Creek metal loading issue "is probably the single largest water quality issue we have in the Upper Animas Basin."

He expressed hope that the data gathered by the EPA "will be useful in understanding the details of the problem so that better solutions can be identified."

And Fearn said that while the EPA "may feel it is required to determine if this process (Superfund) would be applicable to this situation, this action is independent of the stakeholders group."

**'Nibbling at the edges'**

Forrest said she appreciates the progress ASRG has made over the years.

"The stakeholders have done a phenomenal job, but they're kind of nibbling around the edges of what are some larger remaining issues with regard to sources of water quality and habitat degradation. Those issues will be expensive to address," Forrest said.

Forrest said she would like to see more community involvement in addressing the problems of water quality degradation due to past mining activities.

"That's when we started to see more degraded water quality beginning" Forrest said.

In light of that, she said the EPA may have to reconsider its stance. She said the EPA did agree to steer clear of Superfund as long as there is improvement, "but that hasn't continued."

Todd Hennis of Silver Plume, who owns several mining properties in San Juan County, expressed concern that the EPA will require past and present landowners in the area to pay for the cleanup, whether they are responsible for the contamination or not.

He also urged state and federal officials to implement what he called "the only real technical solution" to the mine pool problem by removing the third bulkhead of the American Tunnel, which he said would remove all the new discharges that have occurred since 2000, and allow the water to be treated from a single source.

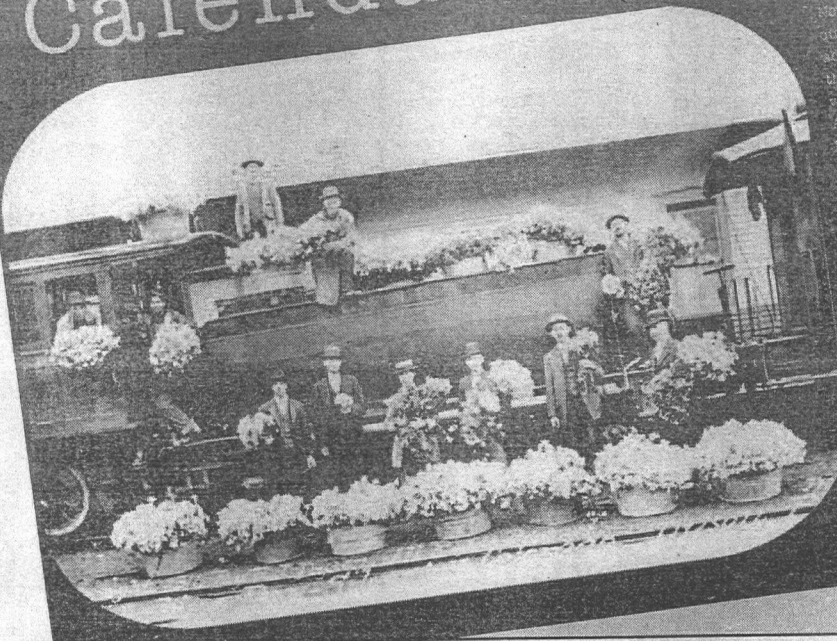
He said it could be done "in a way that strengthens the San Juan County community rather than destroying it."

Hennis accused the EPA of "breaking its promise to the people of San Juan County" by pursuing possible Superfund designation.

**Empty seats?**

# THE SILVERTON STANDARD & THE MINER

## Calendar 2011



This 2011 Silverton Standard & the Miner calendar includes some of the infamous "Extracts from the Gladstone Kibosh," outrageous stories alleged to have come from a mythical Gladstone newspaper, concocted by Silverton Standard editor Oliver Klinger from 1899 to 1908.

**January 4, 1902**

Now four days passed off very quietly this year, only fourteen accidents occurring owing to the shooting at midnight. The watch service at the Salvation Army was a failure, as Deacon Levine, the only participant, was shot with a stray bullet in the hip and retired at 11:35. Only one arrest - Willie B. Good was charged with refusing to drink and took at 12:02 a.m.

**Jan. 5, 1901**

Deaths of deceased subscribers will not be inserted. To sustain the and make less issues we will collect twice a month hereafter. Anyone wanting extra copies containing death notices will have to put in their orders three months prior to the death of friend, relative, etc.

# Giving the gift of Silverton

group.

### 'Nibbling at the edges'

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Forrest said she would like to see more community involvement in addressing the problems of water quality degradation due to past mining activities.

And she said the current effort to determine if the Cement Creek district qualifies for Superfund differs from past initiatives.

Forrest noted that some EPA inspection of the area was done in the late 1990s, "but they were looking at the area in a larger, watershed way.

"We're now just trying to focus on some of the larger sources on Cement Creek that have the worst impact on water quality," Forrest said.

Forrest acknowledged that the EPA did make a past commitment that if the stakeholders group finds collaborative ways to make water quality improvements that Superfund would not be used.

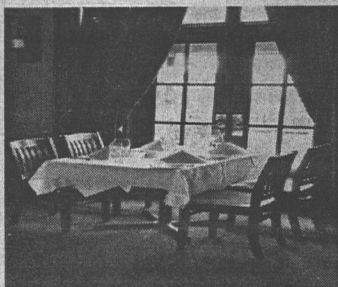
But Forrest noted that water quality in Cement Creek has gone downhill since 2005 when a treatment plant at Gladstone went off line.

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### Empty seats?



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